

### Remarks

The Office Action mailed October 2, 2003 has been carefully reviewed and the foregoing amendments have been made in consequence thereof.

Claims 1-33, and 35-83 are now pending in this application. Claims 1-83 stand rejected. Claim 34 has been cancelled.

In accordance with 37 C.F.R. 1.136(a), a two-month extension of time is submitted herewith to extend the due date of the response to the Office Action dated October 2, 2003 for the above-identified patent application from January 2, 2004 through and including March 2, 2004. In accordance with 37 C.F.R. 1.17(a)(2), authorization to charge a deposit account in the amount of \$420.00 to cover this extension of time request also is submitted herewith.

The rejection of Claims 1-7, 9-14, 18, 20, 22-49, and 52-83 under 35 U.S.C. § 102(b) as being anticipated by Woolard et al. (U.S. Patent No. 6,178,362) ("Woolard") is respectfully traversed.

Applicant respectfully submits that Woolard does not describe nor suggest the claimed invention. As discussed below, at least one of the differences between Woolard and the present invention is that Woolard neither describes nor suggests a method for recommending a power generating facility to a business entity interested in acquiring a power generating facility that includes identifying a plurality of power generating facilities for potential acquisition.

Furthermore, at least another of the differences between Woolard and the present invention that will be discussed below is that Woolard neither describes nor suggests storing in a database information relating to a plurality of power generating facilities that includes historical operational data and predicted future operational data, computing performance metrics for each power generating facility based on the historical operational data and the predicted future operational data, and analyzing investment risks associated with acquiring each of the power generating facilities based on the performance metrics.

Moreover, as discussed below, at least one other difference between Woolard and the present invention is that Woolard neither describes nor suggests performing a financial comparison of each of the power generating facilities based on at least one of the performance metrics and the identified investment risks, and recommending to the business entity a power generating facility that most closely satisfies the operational and financial objectives of the business entity.

Woolard describes an energy and facilities management system (12) for an energy user who owns widely dispersed energy consuming facilities (14), wherein system (12) includes an energy and facilities management apparatus (26) for controlling facilities (14). Each facility (14) includes an energy management device that provides an interface for communicating data between system (12) and facility (14). The user can remotely control, manage and monitor each facility (14) using system (12). System (12) collects data from both internal data sources (22) and external data sources (24), and uses the energy and facilities management apparatus (26) to track energy usage or to change energy usage patterns based on the forecasted weather or based on a less expensive energy provider.

Claim 1 recites a method for recommending a power generating facility to a business entity interested in acquiring a power generating facility that includes “identifying a plurality of power generating facilities for potential acquisition...storing in the database information relating to the plurality of power generating facilities, the information including historical operational data and predicted future operational data...computing performance metrics for each power generating facility based on the historical operational data and the predicted future operational data...analyzing investment risks associated with acquiring each of the power generating facilities based on the performance metrics...performing a financial comparison of each of the power generating facilities based on at least one of the performance metrics and the identified investment risks...recommending to the business entity a power generating facility that most closely satisfies the operational and financial objectives of the business entity.”

Woolard does not describe or suggest the method for recommending a power generating facility as recited in Claim 1. More specifically, Woolard does not describe or

suggest a method for recommending a power generating facility to a business entity interested in acquiring a power generating facility that includes identifying a plurality of power generating facilities for potential acquisition.

Furthermore, Woolard neither describes nor suggests storing in a database information relating to a plurality of power generating facilities that includes historical operational data and predicted future operational data, computing performance metrics for each power generating facility based on the historical operational data and the predicted future operational data, and analyzing investment risks associated with acquiring each of the power generating facilities based on the performance metrics.

Moreover, Woolard neither describes nor suggests performing a financial comparison of each of the power generating facilities based on at least one of the performance metrics and the identified investment risks, and recommending to the business entity a power generating facility that most closely satisfies the operational and financial objectives of the business entity.

As indicated in the Office Action at page 13, Woolard fails to describe analyzing investment risks. Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. Although the energy and facilities management system described in Woolard collects data from both internal data sources and external data sources, and monitors, trends, and archives the data, the system described in Woolard does not compute performance metrics and does not analyze investment risks associated with acquiring the power generating facility based on the performance metrics. Accordingly, Applicant respectfully submits that Claim 1 is patentable over Woolard.

Claims 2-7, and 9-13 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-7, and 9-13 are considered in combination with the recitations of Claim 1, Applicant respectfully submits that dependent Claims 2-7, and 9-13 likewise are patentable over Woolard.

Claim 14 recites a method for determining a value for at least one power plant that includes “predicting a total revenue produced by the power plant including future revenues based on the selected power generating capabilities and the predicted periods of time when the power plant is not generating power...predicting a total cost to operate the power plant including future costs based on the selected cost of operate the power plant...calculating a net value for the power plant using the predicted total revenue and the predicted total cost.”

Woolard does not describe nor suggest the method for determining a value for a power plant as recited in Claim 14. More specifically, Woolard does not describe nor suggest predicting a total revenue produced by the power plant including future revenues based on the selected power generating capabilities and the predicted periods of time when the power plant is not generating power, predicting a total cost to operate the power plant including future costs based on the selected cost of operate the power plant, and calculating a net value for the power plant using the predicted total revenue and the predicted total cost.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. Although the energy and facilities management system described in Woolard collects data from both internal data sources and external data sources, and monitors, trends, and archives the data, the system described in Woolard does not calculate a net value for the power plant using the predicted total revenue and the predicted total cost of the power plant. Accordingly, Applicant respectfully submits that Claim 14 is patentable over Woolard.

Claims 18, 20, and 22-27 depend, directly or indirectly, from independent Claim 14. When the recitations of Claims 18, 20, and 22-27 are considered in combination with the recitations of Claim 14, Applicant respectfully submits that dependent Claims 18, 20, and 22-27 likewise are patentable over Woolard.

Claim 28 recites a computer program for managing evaluation and selection of a power plant for a business entity interested in acquiring a power plant that includes a code segment that “receives facility information including historical operational data and predicted future operational data for each of the plurality of power plants...computes performance

metrics for each power plant using the historical operational data and the predicted future operational data...analyzes investment risks associated with acquiring each of the power plants based on the performance metrics...performs a financial comparison of each of the power plants based on at least one of the performance metrics and the investment risks...generates management reports based on the received facility information including recommending a power plant that most closely satisfies the operational and financial objectives of the business entity.”

Woolard does not describe nor suggest the computer program for managing evaluation and selection of a power plant as recited in Claim 28. More specifically, Woolard does not describe nor suggest a computer program having a code segment that receives facility information including historical operational data and predicted future operational data for each of the plurality of power plants, computes performance metrics for each power plant using the historical operational data and the predicted future operational data, and analyzes investment risks associated with acquiring each of the power plants based on the performance metrics.

Furthermore, Woolard neither describes nor suggests a computer program having a code segment that performs a financial comparison of each of the power plants based on at least one of the performance metrics and the investment risks, and generates management reports based on the received facility information including recommending a power plant that most closely satisfies the operational and financial objectives of the business entity.

As indicated in the Office Action at page 13, Woolard does not describe analyzing investment risks. Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. Although the energy and facilities management system described in Woolard collects data from both internal data sources and external data sources, and monitors, trends, and archives the data, the system described in Woolard does not compute performance metrics and does not analyze investment risks associated with acquiring power plants based on the performance metrics. Accordingly, Applicant respectfully submits that Claim 28 is patentable over Woolard.

Claim 34 has been cancelled. Claims 29-33 depend, directly or indirectly, from independent Claim 28. When the recitations of Claims 29-33 are considered in combination with the recitations of Claim 28, Applicant respectfully submits that dependent Claims 29-33 likewise are patentable over Woolard.

Claim 35 recites a computer program for managing evaluations of power generating facilities that includes “a code segment that analyzes each of the power generating facilities based on facility information and pre-selected criteria stored in the server system in response to an inquiry by the user...a code segment that recommends a specific power generating facility for investment purposes.”

Woolard does not describe nor suggest the computer program for managing evaluations of power generating facilities as recited in Claim 28. More specifically, Woolard does not describe nor suggest a computer program that has a code segment that analyzes each of the power generating facilities based on facility information, and a code segment that recommends a specific power generating facility for investment purposes.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. Although the energy and facilities management system described in Woolard collects data from both internal data sources and external data sources, and monitors, trends, and archives the data, the system described in Woolard does not recommend a specific power generating facility for investment purposes based on the analysis of each of the power generating facilities. Accordingly, Applicant respectfully submits that Claim 35 is patentable over Woolard.

Claims 36-42 depend, directly or indirectly, from independent Claim 35. When the recitations of Claims 36-42 are considered in combination with the recitations of Claim 35, Applicant respectfully submits that dependent Claims 36-42 likewise are patentable over Woolard.

Claim 43 recites an apparatus for recommending at least one power generating facility from a plurality of power generating facilities to a business entity interested in acquiring a

power generating facility, wherein the apparatus includes “means for prompting a user to enter power generating facility information for the plurality of power generating facilities, the facility information including historical operational data for each of the power generating facilities...means for predicting future operational data for each of the power generating facilities based on the historical operational data of the corresponding power generating facility...means for calculating performance metrics for each of the power generating facilities using the historical operational data and the predicted future operational data of the corresponding power generating facility...means for identifying investment risks associated with acquiring each of the power generating facilities based on the performance metrics of the corresponding power generating facility...means for analyzing each of the power generating facilities based on the performance metrics and the identified investment risks to recommend a power generating facility out of the plurality of power generating facilities.”

Woolard does not describe nor suggest the apparatus for recommending a power generating facility as recited in Claim 43. More specifically, Woolard does not describe nor suggest an apparatus that includes a means for prompting a user to enter power generating facility information for the plurality of power generating facilities, a means for predicting future operational data, and a means for calculating performance metrics for each of the power generating facilities using the historical operational data and the predicted future operational data of the corresponding power generating facility.

Furthermore, Woolard does not describe nor suggest an apparatus that includes a means for identifying investment risks associated with acquiring each of the power generating facilities based on the performance metrics of the corresponding power generating facility, and a means for analyzing each of the power generating facilities based on the performance metrics and the identified investment risks to recommend a power generating facility out of the plurality of power generating facilities.

As indicated in the Office Action at page 13, Woolard does not describe analyzing investment risks. Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. Although the energy and facilities management system

described in Woolard collects data from both internal data sources and external data sources, and monitors, trends, and archives the data, the system described in Woolard does not identify investment risks associated with acquiring each of the power generating facilities, and does not analyze each of the power generating facilities based on the performance metrics and the identified investment risks to recommend a power generating facility out of the plurality of power generating facilities. Accordingly, Applicant respectfully submits that Claim 43 is patentable over Woolard.

Claims 44-49 depend, directly or indirectly, from independent Claim 43. When the recitations of Claims 44-49 are considered in combination with the recitations of Claim 43, Applicant respectfully submits that dependent Claims 44-49 likewise are patentable over Woolard.

Claim 52 recites a web-based system for selecting a power generating facility by a business entity interested in acquiring a power generating facility that includes a server system configured to “allocate operating expenses for each of the power generating facilities based on the historical operational data and the predicted future operational data for each of the facilities...calculate a facility cost and an associated return on investment for each of the power generating facilities...provide various management reports that provide operational details for each of the power generating facilities...recommend a power generating facility from the plurality of power generating facilities satisfying the operational and financial objectives of the business entity.”

Woolard does not describe nor suggest the web-based system for selecting a power generating facility by a business entity interested in acquiring a power generating facility as recited in Claim 52. More specifically, Woolard does not describe nor suggest a server system configured to allocate operating expenses for each of the power generating facilities based on the historical operational data and the predicted future operational data for each of the facilities, and calculate a facility cost and an associated return on investment for each of the power generating facilities.

Furthermore, Woolard does not describe nor suggest a server system configured to provide various management reports that provide operational details for each of the power



generating facilities, and recommend a power generating facility from the plurality of power generating facilities satisfying the operational and financial objectives of the business entity.

Rather, Woolard describe an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device. The system described in Woolard does not allocate operating expenses based on the historical operational data and the predicted future operational data, and does not calculate a facility cost and an associated return on investment for each of the power generating facilities. Accordingly, Applicant respectfully submits that Claim 52 is patentable over Woolard.

Claims 53-73 depend, directly or indirectly, from independent Claim 52. When the recitations of Claims 53-73 are considered in combination with the recitations of Claim 52, Applicant respectfully submits that dependent Claims 53-73 likewise are patentable over Woolard.

Claim 74 recites a database that includes “data corresponding to Boiler Data for a power generating facility...and a processing component that utilizes at least one of the Boiler Data, Feed Water Data, Balance of Plant Data, Turbine Data, and APC Equipment Data to calculate a facility cost and a facility value for the power generating facility.”

Woolard does not describe nor suggest the database as recited in Claim 74. More specifically, Woolard does not describe nor suggest a processing component that calculates a facility cost and a facility value for the power generating facility. Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device, and as such does not describe or suggest calculating a facility cost and a facility value for the power generating facility. Accordingly, Applicant respectfully submits that Claim 74 is patentable over Woolard.

Claims 75-77 depend, directly or indirectly, from independent Claim 74. When the recitations of Claims 75-77 are considered in combination with the recitations of Claim 74,

Applicant respectfully submits that dependent Claims 75-77 likewise are patentable over Woolard.

Claim 78 recites a computer to facilitate an online strategic decision making process to select a power generating facility by a business entity for acquisition purposes, wherein the computer is programmed to “identify a subset of power generating facilities from the plurality of power generating facilities...evaluate each facility included within the identified subset using pre-determined values stored in the centralized database and the corresponding power generating facility information...generate reports identifying a power generating facility from the subset of power generating facilities satisfying the acquisition objectives of the business entity.”

Woolard does not describe nor suggest a computer as recited in Claim 78. More specifically, Woolard does not describe nor suggest a computer programmed to identify a subset of power generating facilities from the plurality of power generating facilities, evaluate each facility included within the identified subset using pre-determined values stored in the centralized database and the corresponding power generating facility information, and generate reports identifying a power generating facility from the subset of power generating facilities satisfying the acquisition objectives of the business entity.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device, and as such does not describe or suggest identifying a power generating facility for acquisition purposes.

Claims 79-83 depend, directly or indirectly, from independent Claim 78. When the recitations of Claims 79-83 are considered in combination with the recitations of Claim 78, Applicant respectfully submits that dependent Claims 79-83 likewise are patentable over Woolard.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1-7, 9-14, 18, 20, 22-49, and 52-83 be withdrawn.

The rejection of Claims 8, 15-16, 19, 21, and 50-51 under 35 U.S.C. § 103 as being unpatentable over Woolard et al. (U.S. Patent No. 6,178,362) (“Woolard”) in view of Takriti et al. (U.S. Patent No. 5,974,403) (“Takriti”) is respectfully traversed.

Woolard is described above. Takriti describes a computer implemented tool (11) which forecasts the price of electric power and the amounts of power that may be traded in a certain market. The user of tool (11) is either a power supplier who is interested in determining the proper amount of power to generate or the proper price of the power generated, or a power broker who is interested in buying and selling power for a profit. Tool (11) receives inputs from a plurality of utilities (12), wherein the inputs include historical data of selling prices and amounts of power sold by each utility, and an output (14) of tool (11) is the probabilistic distribution for trades of power and the prices of power at a time in the future.

Claim 8 depends from independent Claim 1. Claim 1 is recited hereinabove.

Neither Woolard nor Takriti, considered alone or in combination, describe or suggest the method for recommending a power generating facility as recited in Claim 1. More specifically, neither Woolard nor Takriti, considered alone or in combination, describe or suggest a method for recommending a power generating facility to a business entity interested in acquiring a power generating facility that includes identifying a plurality of power generating facilities for potential acquisition.

Furthermore, neither Woolard nor Takriti, considered alone or in combination, describe or suggest storing in a database information relating to a plurality of power generating facilities that includes historical operational data and predicted future operational data, computing performance metrics for each power generating facility based on the historical operational data and the predicted future operational data, and analyzing investment risks associated with acquiring each of the power generating facilities based on the performance metrics.

Moreover, neither Woolard nor Takriti, considered alone or in combination, describe or suggest performing a financial comparison of each of the power generating facilities based

on at least one of the performance metrics and the identified investment risks, and recommending to the business entity a power generating facility that most closely satisfies the operational and financial objectives of the business entity.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device; and Takriti describes a computer implemented tool for forecasting the price of electric power and the amounts of power that may be traded in a certain market in the future. As indicated in the Office Action at page 13, Woolard does not describe analyzing investment risks. Furthermore, although the computer implemented tool described in Takriti provides the trader with probabilistic distributions for spot pricing and trading so that he or she can manage risk efficiently, the computer implemented tool does not analyze investment risks associated with acquiring a power generating facility as recited in Claim 1. Accordingly, Applicant respectfully submits that Claim 1 is patentable over Woolard in view of Takriti.

When the recitations of Claim 8 are considered in combination with the recitations of Claim 1, Applicant respectfully submits that Claim 8 likewise is patentable over Woolard in view of Takriti.

Claims 15-16, 19, and 21 depend from independent Claim 14. Claim 14 is recited hereinabove.

Neither Woolard nor Takriti, considered alone or in combination, describe or suggest the method as recited in Claim 14. More specifically, neither Woolard nor Takriti, considered alone or in combination, describe or suggest predicting a total revenue produced by the power plant including future revenues based on the selected power generating capabilities and the predicted periods of time when the power plant is not generating power, predicting a total cost to operate the power plant including future costs based on the selected cost of operate the power plant, and calculating a net value for the power plant using the predicted total revenue and the predicted total cost.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device; and Takriti describes a computer implemented tool which forecasts the price of electric power and the amounts of power that may be traded in a certain market in the future. Accordingly, Applicant respectfully submits that Claim 14 is patentable over Woolard in view of Takriti.

When the recitations of Claims 15-16, 19, and 21 are considered in combination with the recitations of Claim 14, Applicant respectfully submits that Claims 15-16, 19, and 21 likewise are patentable over Woolard in view of Takriti.

Claims 50-51 depend from independent Claim 43. Claim 43 is recited hereinabove.

Neither Woolard nor Takriti, considered alone or in combination, describe or suggest the apparatus as recited in Claim 43. More specifically, Neither Woolard nor Takriti, considered alone or in combination, describe or suggest an apparatus that includes a means for prompting a user to enter power generating facility information for the plurality of power generating facilities, a means for predicting future operational data, and a means for calculating performance metrics for each of the power generating facilities using the historical operational data and the predicted future operational data of the corresponding power generating facility.

Furthermore, neither Woolard nor Takriti, considered alone or in combination, describe or suggest an apparatus that includes a means for identifying investment risks associated with acquiring each of the power generating facilities based on the performance metrics of the corresponding power generating facility, and a means for analyzing each of the power generating facilities based on the performance metrics and the identified investment risks to recommend a power generating facility out of the plurality of power generating facilities.

Rather, Woolard describes an energy and facilities management system for controlling, managing and monitoring existing energy consuming facilities through a remote energy management device; and Takriti describes a computer implemented tool which

forecasts the price of electric power and the amounts of power that may be traded in a certain market in the future. Accordingly, Applicant respectfully submits that Claim 43 is patentable over Woolard in view of Takriti.

When the recitations of Claims 50-51 are considered in combination with the recitations of Claim 43, Applicant respectfully submits that Claims 50-51 likewise are patentable over Woolard in view of Takriti.

In addition to the above arguments, the rejection of Claims 8, 15-16, 19, 21, and 50-51 under 35 U.S.C. § 103(a) as being unpatentable over Woolard in view of Takriti is further traversed on the grounds that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been obvious to one of ordinary skill in the art to modify Woolard using the teachings of Takriti. More specifically, as is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Neither Woolard nor Takriti, considered alone or in combination, describe or suggest the claimed combination. Rather, the present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Since there is no teaching, suggestion or motivation for the combination of Woolard and Takriti, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant request that the Section 103 rejection of Claims 8, 15-16, 19, 21, and 50-51 be withdrawn.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 8, 15-16, 19, 21, and 50-51 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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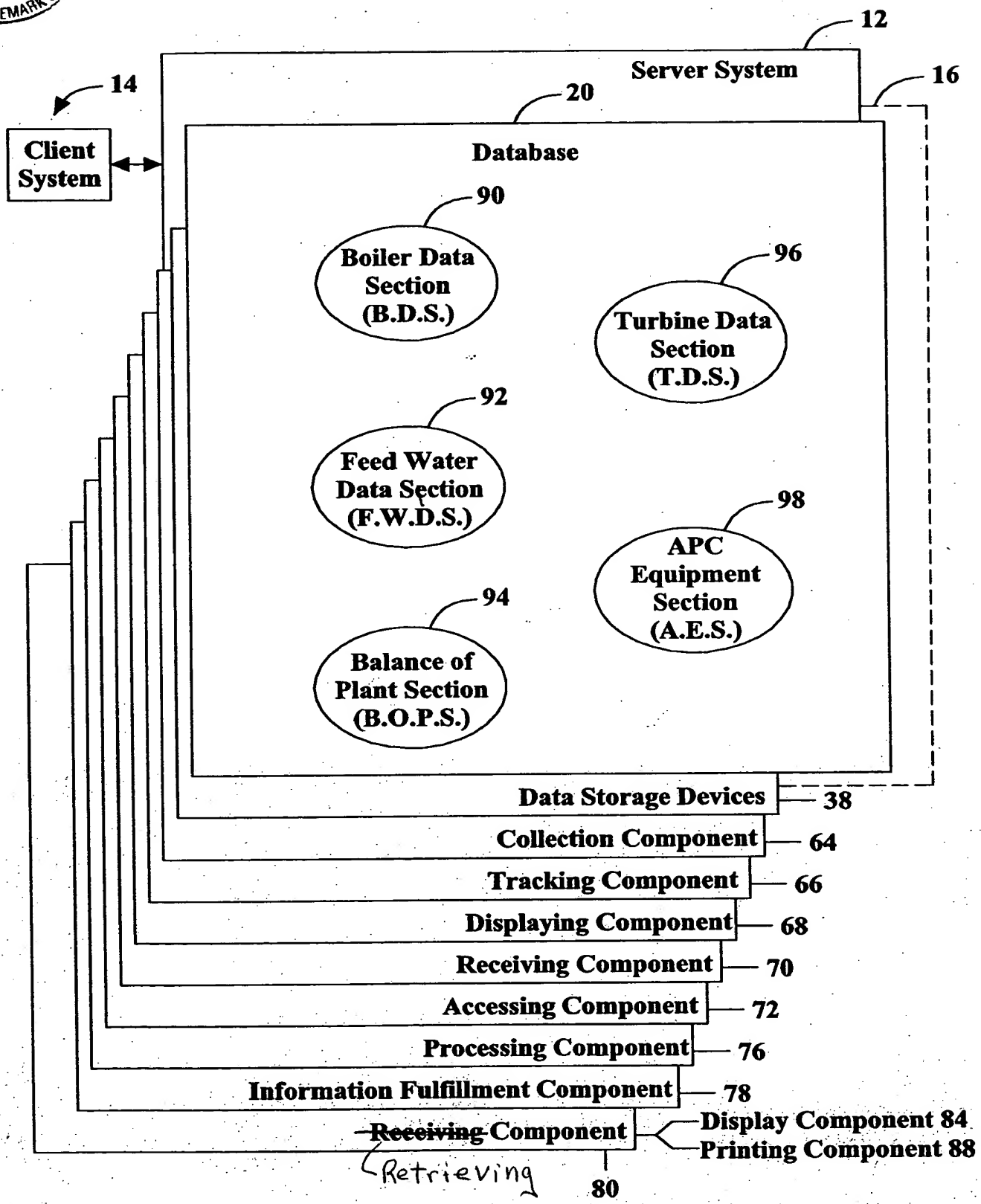


FIG. 3